

NEBRASKA DEPARTMENT
OF INSURANCE

MAY 23 2003

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

FILED

IN THE MATTER OF THE DENIAL OF)	CAUSE NO.: A-1495
APPLICATION FOR LICENSE FOR)	
RICHARD MARK HILL)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
)	RECOMMENDED ORDER
)	AND ORDER

This matter came on for hearing on the 8th day of May, 2003, before Christine M. Neighbors, a hearing officer duly appointed by the Director of the Nebraska Department of Insurance. This matter arises out of a denial of an application for a resident insurance producer license. The Nebraska Department of Insurance ("Department") was represented by its legal counsel, Michael Boyd. Richard Mark Hill ("Applicant") was present and represented by legal counsel, Doug Marolf. Applicant offered oral testimony and two exhibits in support of his application. Paul Grieger, formerly a licensed insurance agent, testified on behalf of Applicant. The Department offered oral testimony and exhibits. Beverly Creager, the Licensing Administrator of the Department, testified on behalf of the Department. The proceedings were tape recorded by Tracy Gruhn, a licensed Notary Public. The Rules of Evidence were not requested and the hearing was governed accordingly. The matter was taken under advisement. As a result of the hearing, the hearing officer hereby makes the following Findings of Fact, Conclusions of Law and Recommended Order.

FINDINGS OF FACT

1. The Department is the duly designated agency charged with regulating the business of insurance and with exercising jurisdiction and control over the licensing of

insurance producers in the State of Nebraska pursuant to *Neb. Rev. Stat.* §44-101.01 and 44-4047 et seq.

2. On or about March 12, 2003, Applicant applied for a resident insurance producer's license to sell life insurance and annuities, and sickness, accident and health insurance. (Ex. 3). On said application, Applicant disclosed that he had previously held a Nebraska insurance agent license and that the State of Nebraska had taken disciplinary action against that license.

3. On or about March 14, 2003, Beverly Creager, Licensing Administrator for the Nebraska Department of Insurance, notified Applicant that his application for an insurance producer's license was denied based upon *Neb. Rev. Stat.* §44-4059(1)(b) and §44-4059(1)(i) and informed him of his option to make a written request for a hearing on the denial. (Ex. 9).

4. On or about April 8, 2003, Applicant requested a hearing, pursuant to *Neb. Rev. Stat.* §44-4059(2), to appeal the denial of the license.

5. The Notice of Hearing filed April 14, 2003 was served upon the Applicant by certified mail, return receipt requested, to the address of 401 Santa Fe, Lincoln, Nebraska 68521 with the return receipt received by the Department on April 21, 2003. (Ex. 2).

6. Paul Grieger worked with Applicant from 1989 to 1991 while both were appointed with Capital American Insurance Company selling a cancer insurance policy. In his experience with Applicant, Mr. Grieger found Applicant to be honest, truthful and knowledgeable. He was not aware of any problems with Applicant or his clients.

7. Applicant offered Exhibits 10 and 11, Certificates of Appreciation dated 1993 and the first half of 1994, as evidence of his successful insurance career.

8. Applicant previously held a Nebraska resident insurance agent license. Applicant testified that, during the time he was licensed, he had sold cancer policies successfully. The application form was one page and contained one signature. Applicant subsequently sought appointment with other insurers to sell other policies. Applicant stated that he did not receive sufficient training from United American Insurance Company whose forms were more complicated and required more signatures and, thus, it was the cause of his trouble with clients in 2000. Applicant held the resident insurance producer license until December 13, 2000 when that license was suspended and subsequently revoked. (Ex. 7 and Ex. 8). Applicant did not appeal either Order.

9. Applicant testified that he knew he made a mistake in 2000, but then went on to testify that United American was responsible for his problems due to the lack of training and overly burdensome forms. The hearing officer finds that Applicant provided no evidence, other than his testimony, to explain his current character and why he would be fit to receive a license at this time given the previous revocation. The hearing officer finds the evidence offered by Applicant's witness covering the time period from 1989 to 1991 and the 1993 and 1994 sales awards are well before the incidents that occurred in 2000 and shed no light on Applicant's abilities today.

10. Applicant testified that he possesses two Bachelor of Arts degrees in theology and business administration and has experience in the construction and sales industries. Applicant testified that, since his previous license was revoked, he has had a number of jobs, "if that is what you call them," and that he was not satisfied with those

jobs as he is unable to maintain the lifestyle that he enjoyed previously while selling insurance. This, again, sheds no light on whether Applicant is fit to hold a license

CONCLUSIONS OF LAW

1. The Department has jurisdiction and control over the licensing of Applicant to sell insurance in the State of Nebraska pursuant to *Neb. Rev. Stat. §44-101.01 and §44-4047 et seq.*
2. The Department has personal jurisdiction over Applicant.
3. The previous disciplinary actions against Applicant in State of Nebraska Department of Insurance vs. Richard Mark Hill, Cause No.: A-1399 and State of Nebraska Department of Insurance vs. Richard Mark Hill, Cause No.: A-1429 constitute a sufficient basis to deny Applicant a license pursuant to *Neb. Rev. Stat. §44-4059(1)(i).*

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that the Director of Insurance deny Applicant's request for an insurance producer's license.

Dated this 22nd day of May, 2003.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE


HEARING OFFICER

CERTIFICATE OF ADOPTION

I have reviewed the foregoing Findings of Fact, Conclusions of Law and Recommended Order and hereby certify that the Recommended Order is adopted as the

official and final Order of this Department for Cause No.: A-1495, In the Matter of the
Denial of Application for License for Richard Mark Hill.

Dated this 23rd day of May, 2003.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



L. TIM WAGNER
Director of Insurance

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Findings of Fact, Conclusions of Law, Recommended Order and Order was served upon Applicant by mailing same to his counsel, Doug Marolf, Marolf & Pearson, 221 South 66th Street, Lincoln, NE 68510-2304 on this 29th day of May, 2003 by certified mail, return receipt requested.

